CP-51-CR-000024
MC-51-CR-003129
192604241 9-00

Defendant,

Respondent

I.

1. Defendant, Michael Joseph Kane II, charges under docket no: CP-51-CR-0000240-2 MC-51-CR-0031292-2019.

◦ 18 § 4915.2 §§A2 - Fail to Verify Address Offender Registration[1] requirements of SORN

This charge was listed[2] u(nMdCe-r5 1t-hCeR -n0o0w3 1l2i9s2 which shares the same complaint/incident officer originally filed on 12/03/2019. T and subsequently assigned to Rania Majors

...and incorrectly cites the law with wh justification for re-arrested; and only s maximum punishment rooted from a previous

An individual who is subject to a counseling requirement unde registration statute following conviction in another jurisdic the individual knowingly fails to comply with that requiremer § 9799.56(b)(4)(i).
https://www.legis.state.pa.us/

Defendant was arrested on 12/02/2019. How is arrested?

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1 https://www.legis.state.pa.us
2 https://ujsportal.pacourts.us/

- 18 § 4915.2 – Failure to comply with[3] 42 Pa
  - This charge is listed under CP-51-CR-000 EVERY provision under § 4915.2 and has us from a closed case, and moving the origin documentation.
    - Case Local Numbers(s)
      - MC-51-CR-0031292-2019
      - 1926042419
      - 1926042419-0031292
    - Date Filed: 01/10/2020
    - Initiation Date: 01/10/2020
    - Complaint/Incident #: 1926942419-00312

2. On November 29th, 2019, Defendant was noti §§A2 - Fail to Verify Address/Be Photographe Creachen, whom was sent to 2009 Hancock St, address under SOR, NA 2.01 9th, Dthence Defendant will the 26th Police District located at 615 East subsequently incarcerated at CFCF, Philadelphia, December 3rd on 10% of a $20,000.00 cash ba

3. These charges are nothing more than an inc and executive branches of Pennsylvania have violation of to justify their knowing and rep Federal or State Constitutional privileges, without so much as a discovery motion, which trial; a denial of due-process in the name and this Defendant tried to hand deliver a m be denied access to the upper levels of the representing himself. The defendant spoke to escorted out of the building by staff on Jan

4. Philadelphia, PA is currently under the mo global pandemic; CoVID-19. While certain oth delayed and Due Process violated in the name SECTION 242 – DEPRIVATION OF RIGHTS UNDER TH

3 https://www.legis.state.pa.us/

5. While rules and procedures may change duri
remains the same. This was reported to the P
Association complaint No: 202010290004 in reg
051298) for failure to provide the most rud
recipient of the $2000.00 cash bail bond tha
Her failure to research, or provide any work
my interests, such as the court ordered bri
complaint to the Pennsylvania Bar.

6. These charges only serve to increase the p
trial by jury in Commonwealth v. Michael J
no. 06-5819 (2006) legally sentenced the Def
underlying Sub-chapter H of the Sexual Offen
as amended by Act 29 of 2018 (SORNA II). Aft
years of a three and one half (3.5) year
register as a Sex Offender for that offense
Defendant to register as a sexual offender w
made in absence of his Sixth Amendment prote
protect a defendant from the particularly sa
Sexual Offender Registration and Notificatio
(SORNA II). Moreover, how do you hold someon
which increased the prescribed punishment to
happened before that act was even passed?

7. In the Defendants previous crim, in 2006 Pa. Dist. & Co
& County. Dec. LEXIS 168 no. 06-5819 (2006)
instruction prohibited the jury from using their ve
from authorities for a prerogative

> You may not under any circumstances, e
> discuss with your fellow jurors any poss
> guilty on any of the counts because that
> evidence on the facts, not on conjecture
> defendant if you find the Commonwealth ha
>
> Hopefully in the short time we've work
> in me, and if you find the Commonwealth h
> me, not you. So don't consider that, ever
> improper.

N.T. 11/29/2006, at 91.

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4 CP-09-CR-0005819-2006 – Initiation Date: 07/28/2006

5 Knannsey Ivv. arPiea Board of, 2015 WL 5458537 (Pa. Cmwlth., No. 1287 C.D. 2014, filed documentation of the Bucks County District Attorney's Office regarding its negat

6 Michael Kane v. Gerald Rozum, et al., Civil Action No. 14-CV-1797, United States District Court – Illega 12/28/2014.

7 The Adam Walsh Child Protection Act (AWA) of 2006 was signed into law on July implement the SORNA requirements within 3 years: July 27, 2009. https://www.soab.pa.gov/FortheCommunity/CurrentLaws/Federal%20Adam%20Walsh%20

5. It is not the job of jurors to trust judge
the judicial, legislative and executive bra
of jurors is to act as a direct check agains

> The potential or inevitable severity of s
> assertions of a mitigating power when the
> political abuse of the criminal process c
> particularly sanguinary consequences. Thi
> the form not only of flat-out acquittals
> manifestations of what Blackstone describ

Jones, v526USUS 227 (1999)

6. When our Supreme Court decided Muniz

criminal punishment, 171 A.3d 1212, 1
Super. 2017). In that case, Jose Muniz was c
time of his scheduled sentencing, the law ca
period of time subsequent to his offense. Muniz was not apprehende

7. During his absence, SORNA, which changed certain
register for life. Muniz argued the SORNA ob
retroactively. After applying the factors set forth in Mendoza, 372 U.S. 144, 147 (1963), our Supreme Court concluded
SORNA was punitive, ex post facto clauses of
Pennsylvania Constitution bar retroactively
applicable laws.

8. Since Commonwealth v. Wolfe, 157 A.3d 593 (
the United States Supreme Court has clarifi
punishments beyond the statutory maximum mus
reasonable doubt. See Apprendi v. New Jersey, 530 U.S. 466, 490, 120 S.Ct.
147 L.Ed.2d 435 (2000).

9. Because the determination of a Life-Time
Defendant is Judge, failure to register charges
finding of a life-time det(i.e. predicate offense) is properly
'willful' non-compliance determinations are
by a judge, rather than statutorily.)

10. In Jones v. United States, 526 U.S. 227 (1999), the United States
juries to act as a check on the government
the facts and the law in order to use their

> The potential or inevitable severity o
> assertions of a mitigating power when the
> political abuse of the criminal process c
> particularly sanguinary consequences. Thi
> the form not only of flat-out acquittals
> call verdicts of guilty to lesser include
> described as "pious perjury' on the juror
>
> Countervailing measures to diminish th
> forthcoming, with ensuing responses both
> One such move on the Government's side wa
> right to jury trial when defining new, st
> violations of the Stamp Act and recurred
> was one of the occasions for the eighteen
> benefit of jury trial. . . . Identifying trial b
> liberties, Blackstone contended that othe
> this palladium remains sacred and inviola
> would be so hardy as to make) but also fr
> undermine it: by introducing new and arb
> commissioners of the revenue, and courts
> may appear at first, (as doubtless all ar
> convenient), yet let it be again remember
> forms of justice, are the price that all
> substantial, material." 342-343 (1769).
>
> A second response to the juries' power
> to confine jury determinations in libel
> apply the law and, thus, to limit the opp
> course, the attempt failed. . . It is sign
> restrictive efforts was principally the j
> law to fact (or "finding the law, not the fact, he
> There were apparently some accepted under
> simply too sacred a jury prerogative to b
> significant and traditional offense in th
> in the minds of the Farmers is beyond cav
> Americans of the period perfectly well un
> lost no only by gross denial, but by eros
> for example, commenting on the jury tria
> warning of the need "to guard with the mo
> introduction of new, and arbitrary method
> pretenses, may in time, imperceptibly und
>
> In sum, there is no reason to suppose
> peculiar their details to our time and p

significance would merit Sixth Amendment

Id at 245-48, citations omitted, emphasis ad

11. The history of juror's proper authority ur
was explored in much gr[illegible] 687 F Supp 12 n 11 (S.

A. The Sixth Amendment – History and Cont

A brief historical review demonstrates
defendant – in cases such as this one –
impact of its decisions.

Under the majority approach of the Sup
championed by Justice Scalia and others,
Thirteen Colonies and England in 1791, wh
today must deal with the caveats of Profe
about difficulties in unders[illegible]
requires that we apply 1780 jury practice

* * *

[I]t appears fairly clear, from the revie
eighteenth-century colonial and English c
would have been away of any harsh senten
guilt of a particular crime. It is equa
been expected to deliver a verdict of not
the punishment excessive for the crime ac

The Sixth Amendment was adopted in 179
of the new republic, guaranteeing the rig
to trial, by an impartial jury of the sta
committed." U.S. Const. Amend. IV. It was
to refuse to convict even if the facts ar
fundamental power of the jury – and the
to "nullify." Negative current connotati
and responsibility ignore history and the

When a jury [illegible] it
applied, a misconceived [illegible]
role as imposed by [illegible]
these powers of the jury were exercised c
aware of the punishments their verdicts w
the Sixth Amendment [illegible]
always nullify an unpopular law if they
stop them.

Introduced by James Madison as a promi
Constitution by the people of the States
criminal cases solidified and ratified th
essential institutions upon which the peo
limit the kind of governmental overreach

> For the Framers, there would have been
> for support in the "courts of conscience
> such as those in the well-known trials of
> Zenger, which had refused to convict when aut
> them to do so.
>
> * * *
>
> The right to trial by jury incorporated
> envisaged as a check against overreaching
>
> * * *
>
> Jury power not to convict was extensiv
> would be expected to follow from convict
> power to reduce the sentence presupposed
> It is not strange that jurors should,
> know the details of criminal law and puni
> jurors do not know and are deliberately k
>
> * * *
>
> [M]odern courts cannot ignore the form
> sentences simply because judicial views h
> gradually eroded the influence of the la
>
> * * *
>
> The several constitutions of the state
> contained the provision that trial by jur
> remain inviolate. These words are a direc
> which, must thought they be, it behooves
>
> * * *
>
> After being tried in a well-publicized
> Nicholas Bayard, a former commanding offi
> New York under British rule, appealed to
> jury composition – i.e., the juror's igno
>
> In his petition and "appeal" to Queen
> things that he had been "convicted by an
> returned and very ignorant of the English

Id at 167-174, 184-186, emphasis added, cita

12. In June of 2013, the Supreme Court provide
reaffirming and preserving the "historic ro
and criminal defendants":

> Defining facts that increase a mandatory
> offense enables the defendant to predict
> the indictment. It also preserves the his
> State an criminal defendants. This right
> oppression and tyranny on the part of ru
> by our ancestors in the parent country, a
> liberties.

Alleyne, v. 133 S.Ct. 2151, 2161 (2013), citati

13. Those are the standards that the United St
violations of a Sixth Amendment right to tr
that the Defendant presents his Sixth Amendr

14. In Apprendi, Alleyne, the U.S. Supreme Court treate
defendants constitutional rights to notice,
is proven beyond a reasonable doubt, as stru

15. To properly frame this argument, it is nec
response to our Supreme Court's decision tha
under our Supreme Court's analysis in 1 A.3d 1089 (Pa
SORNA, enacted December 20, 2011, is the fou
referred to as Megan's Law. SORNA built upon
versions by expanding the list of offenses
and grouping sexual offenders into one of th
Pa.C.S. § 9799.14. SORNA imposes mandatory
life, depending upon the tier. Id

15. These requirements necessitated the develo
for its creation and maintenance fell to the
contains information provided by the sexual
information supplied by the state police, in
criminal history information, current photog
SORNA also directs the state police to make
public can use to identify offenders living
used to provide notifications if an offende
§ 9799.28. Depending on the offender's desig
site is required on an annual, semi-annual o
appear in-person within three business days
9799.15(g). Other requirements apply if offe
homeless. 42 Pa.C.S. § 9799.15(h)(1)(i). Fa
offender to prosecution and incarceration.

16. In response to Gomez, the General Assembly enacted SORN
SORNA into two parts, with one set of obliga
December 20, 2012 (Sub-chapter H), and the o
of certain offenses on or after April 22, 19
Sub-chapter

—will still have to do s

17. Additionally, decisions of the Supreme Court of the United States make it clear that SO constitute criminal punishment the mandatory effectively transferred sentencing from the Because only a judge can impose a criminal s that registration scheme is unconstitutiona

II.

18. Moreover this leads us to the argument tha authority to impose the Sub-chapter H regis sentence. According to the Defendant, that p SORNA nor the general sentencing statute au (listing the sentencing options available t requirements).

19. Defendant contends that the inclusion of L of any sentence was invalid and must be vaca without statutory authorization is illegal. sentence, that sentence is illegal and subj Commonwealth, v. Leaver, 978 A.2d 1001-02 (Pa. Sup

20. Section 9721(a) of the Sentencing Code, wh does not include any authorization to impose does not give the trial court any authority The judge merely informs the offender that § 9799.20.

Moreover, the court's failure to do so is i

> "Failure by the court to provide the info a sexual offender to register shall not r of this sub-chapter." 42 Pa.C.S. § 9799.2 has "no authority to relieve a sexual off the requirements[.]" 42 Pa.C.S. § 9799.23

21. While a trial court has the obligation at to SORNA II requirements, the trial court ca because the General Assembly made clear tha convicted of the enumerated crimes, to regis of his or her crime.

22. To the extent that a statute protects the
those records are used by the State to just
of a minimum or max,imsuump rsae)n,tetnhcee S(tAaltlee ycnaen n
as a proverbial fig leaf to conceal their v
actions become tantamount to a trial-by-sec
held by a non-adjudica,t8v8e aFg2dc1 0S9a,1914) v(
officials authorize a system to deprive pers
they intend that it violate due process.)

23. If the legislature has not explicitly auth
or act, then the State's unconstitutional m

> . . .[T]he General Assembly does not intend
> States or of this Commonwealth.
>
> Furthermore, the PA Supreme Court has hel
>
> [A]ct[s] passed by the General Assembl
> constitutional, including the manner in w
> * * *
> If there is any doubt whether a challenge
> that doubt in favor of the statute's cons

Pennsylvania State As,s '6m4 oAf. 3Jdu6y1 1C,om6m1'8rs(Pva..

24. On the other hand, if the statute or act c
portion of the act is plainly unconstitutio
purpose of the act remains viable after sev

> [T]he provisions of every statute shall b
> the applicationotheeriousthealdy ipnevrasloind, t
> the statute, and applthepatrisominsofomstuashel sov
> not be affected thereby. . .

25. Section 1925 of the Statutory Construction
sever provisions of a statute which it deems
inseparably connected,. "5 CAo.3mdon3w5e3a,lt aht v3.59Ne(iP

26. Defendant further contends that to the ext
him, that sentence would be illegal because
individualized sentencing pr,oc1e6d2urAe.3dSe1e1409o,m
Super. 2017) (finding that court abused its
particular characteristics of the defendant
minimums, which raises constitutional issues

States, 570 U.S. 99 (2013). Here, the mandator
conviction of an enumerated crime. So even
impose SORNA obligations as part of its sen
conviction itself sufficed.

27. Defendants have no general constitutional
Wetherford, 429 U.S. 545, 559 (1977). Neverth
providing for the disclosure of certain typ
defendant's due process rights. In Brady v. M
held that due process requires the prosecut
request when such evidence is material to gu
U.S. 667, 682 (1985), the Court held that ev
that disclosure of the evidence would have
post-conviction request under the Freedom o
between the government and the witnesses. I
a probability sufficient to undermine the c
678, 682; see also Kyles v. Whitley, 514 U.S.
favorable evidence [withheld] could reasonal
different light as to undermine the confide

28. The Violent Crime Control and Law Enforcem
other things, incentive grants to states tha
requiring 'violent offenders' to serve[8] imposing
an insurmountable 'element' used to increase
Corrections (DOC) TIS incentive grants for a
sentence served, the Defendant had actively
Pennsylvania Office of Open Records and the

29.

8 https://www.govinfo.gov/content/pkg/GAOREPORTS-GGD-98-
9 Jones, 526 U.S. 227 (1999)
10 Apprendi, v. 530 New Jersey, 120 S. Ct. 2348, 147 L. Ed. 2D
11 Alleyne, 133 S. Ct. 2151, 2161 (2013)

31. Generally, under SORNA, an individual who
register at least once a year; report any cl
vehicle information, a recent photograph and
restrictions, which can force individuals ou
unemployment.

32. SORNA violates our nation's founding docum
offenders for unfair, unconstitutional punis
safety as its rationale for continuing to en
program has metastasized, defacing some of o
the right to be free from double jeopardy an

29. The right to due process can be found in t
Due process is commonly understood to inclu
fair trial and the right to counsel — ideas
in our adversarial criminal justice system.
and public rights against unfairness."

30. Despite what some courts have found, the c
specifically the tenet of presumption of inn
proven guilty. Each state differs in how it
registration varies by state. For example, a
register for life, regardless of the crimes
up to a lifetime, the court is presuming tha
type of crime in the future and therefore mu

31. Another element of due process known as "d
and protects an individual from being prosec
multiple punishments for the same crime. Ind
incarceration and then must begin sex regis
repeatedly.

32. SORNA requirements punish ex-offenders by
punishments, like the inability to qualify
employment and the disqualification of gover
effectively banish ex-offenders to a modern
resources but also by affirmatively ostraciz
incarceration.

33. In addition to violating double jeopardy,
by imposing cruel and unusual punishment. Th
criminal sentence otrhaftaristoeoithaerrsh for the c
is intended to be a punishment and deterrenc
vindictive. After incarceration, an ex-offen

requirement to report one's name, address, p
sample, in addition to the public listing o
medical information to third-parties in vio
Portability Act (HIPPA).

34. Years ago, the legislature of this Commonw
1952, P.L. (1951) 1851, formerly 19 P.S. §§
convicted sex offenders could receive an in
the discretion of the Pennsylvania Board of
209 Pa. Super. 519, 232 A.2d 45 (1967), our
unconstitutional because, 383 U.S. 608, 16 L. Ed.2d
1209 (1967), the act imposed a magnified se
constitutional due process protections.

35. As the legislature did with the Barr-Walke
Court in Appel and Albert, the Commonwealth an
Police Department have collectively imposed
"depriv[ing] a defendant of the procedures v
criminal proceeding," 55 F.2d at 102. See Coleman v. Alabama,
authority to control the outcome of the cas
purpose of the Sixth Amendment.